

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
proposed adoption of new	)	ADOPTION AND AMENDMENT
rule I student discipline	)	
records and the amendment of	)	NO PUBLIC HEARING
ARM 10.55.909 relating	)	CONTEMPLATED
to student records	)	

TO: All Concerned Persons

1. On March 14, 2005, the Board of Public Education proposes to adopt new rule I student discipline records and amend ARM 10.55.909 relating to student records.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on February 22, 2005 to advise us of the nature of the accommodation that you need. Please contact Steve Meloy, P.O. Box 200601, Helena, MT 59620-0601, telephone: (406) 444-6576, FAX: (406) 444-0847, e-mail smeloy@bpe.montana.edu.

3. The proposed new rule provides as follows:

NEW RULE I STUDENT DISCIPLINE RECORDS (1) Each school shall maintain a record of any disciplinary action that is educationally related, with explanation, taken against the student. For the purposes of this rule, a disciplinary action that is educationally related is an action that results in the expulsion or out-of-school suspension of the student. This record is subject to transfer to a local educational agency or accredited school pursuant to 10-1-213(4), MCA. Upon request, a copy of this record shall be sent to a nonpublic school pursuant to 20-1-213(7), MCA, and the No Child Left Behind Act, 20 USC 6301.

4. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

10.55.909 STUDENT RECORDS (1) Each school shall keep, in secure storage, a permanent file of students' records, that shall include:

- (a) the name and address of the student;
- (b) his/her parent or guardian;
- (c) birth date;
- (d) academic work completed;
- (e) level of achievement (grades, standardized achievement tests);
- (f) immunization records as per 20-5-406, MCA; and

(g) attendance data~~7.~~  
~~(h) and a record of any disciplinary action taken against the student that is educationally related. For the purposes of this rule, a disciplinary action that is educationally related is an action that results in the expulsion or out of school suspension of the student.~~

(2) and (3) remain the same.

AUTH: Sec. 20-2-114, MCA

IMP: Sec. 20-2-121, MCA

Statement of Reasonable Necessity: The Board of Public Education has determined that it is reasonable and necessary to adopt New Rule I and amend ARM 10.55.909 to provide clarity for the retention and transfer of disciplinary records and to align the time of retention of the disciplinary records to that of the juvenile justice system.

5. Concerned persons may submit their data, views or arguments concerning the proposed adoption and amendment in writing to the Board of Public Education, P.O. Box 200601, Helena, MT 59620-0601 or by e-mail to smeloy@bpe.montana.edu to be received no later than 5:00 p.m. on March 10, 2005.

6. If persons who are directly affected by the proposed adoption and amendment wish to express their data, views and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to the Board of Public Education, P.O. Box 200601, Helena, MT 59620-0601, or by e-mail to smeloy@bpe.montana.edu. A written request for hearing must be received no later than 5:00 p.m. on March 10, 2005.

7. If the Board of Public Education receives requests for a public hearing on the proposed adoption and amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption and amendment; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 34 persons based on approximately 345 school district clerks in the State of Montana.

8. The Board of Public Education maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to

receive notices regarding rules promulgated by the Board of Public Education. Such written request may be mailed or delivered to the Board of Public Education, P.O. Box 200601, Helena, MT 59620-0601, faxed to the office at (406) 444-0847, or may be made by completing a request form at any rules hearing held by the Board of Public Education.

9. The bill sponsor requirements of 2-4-302, MCA, do not apply. The requirements of 20-1-501, MCA, have been fulfilled. Copies of these rules have been sent to all tribal governments in Montana.

/s/ Dr. Kirk Miller  
Dr. Kirk Miller, Chairperson  
Board of Public Education

/s/ Steve Meloy  
Steve Meloy, Rule Reviewer  
Board of Public Education

Certified to the Secretary of State January 31, 2005.